

Article - Environment

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§5–803.

(a) By January 1, 1982 the Department, after consultation with and consideration of recommendations submitted by subdivisions and the Department of Agriculture and the Department of Planning, shall designate a priority list of watersheds for the purpose of flood control planning and management and establish a schedule for completion of studies of these watersheds.

(b) (1) The Department, in cooperation with the subdivisions and the Department of Agriculture and the Department of Planning, shall conduct studies of the watersheds designated pursuant to subsection (a) of this section which shall define at least:

(i) The existing magnitude and frequency of flood events;

(ii) The magnitude and frequency of flood events based on planned development; and

(iii) Alternative management techniques according to their effectiveness in controlling floods and minimizing flood damage.

(2) The studies shall address at least the 100-year flood event.

(3) By mutual agreement, the Department may delegate the responsibility for carrying out all or part of the studies of priority watersheds to the appropriate subdivisions.

(c) As a part of the study undertaken under subsection (b) of this section, the Department shall delineate the flood hazard areas on maps showing areas of tidal and nontidal inundation.

(d) (1) By July 1, 1990 each subdivision, in cooperation with the Departments of the Environment and Agriculture, the Department of Planning, and other appropriate State agencies, shall prepare a flood management plan based upon an evaluation of the alternative management techniques and other findings included in studies conducted under subsection (b) of this section. Each flood management plan shall be consistent with the purposes and provisions of this subtitle.

(2) Management techniques may include:

- (i) Flood control dams;
- (ii) Levees and dikes;
- (iii) Stormwater detention or retention structures;
- (iv) Public acquisition;
- (v) Flood proofing;
- (vi) Storm drain and stream maintenance;
- (vii) Tax adjustment policies;
- (viii) Subdivision, zoning, and related ordinances; and
- (ix) Other practical methods.

(3) Management techniques shall include flood warning systems.

(e) In any interjurisdictional watershed, those portions of the flood management plans of the subdivisions relating to the watershed shall be subject to review and approval by the Department as one plan. Any comprehensive flood management plan which includes a project for which grant funds are requested under this section is subject to review and approval by the Department. If a plan is disapproved, the Secretary shall set forth in writing the reason for disapproval. Disapproval of a plan shall be based only on flood management considerations.

(f) The Department and the subdivisions shall coordinate activities under this section with all related programs, including the national flood insurance program, the sediment control program, and the State water pollution control and abatement programs.

(g) (1) Each subdivision shall implement the flood management plan for its watershed. If a subdivision so elects, the Department, in consultation with the subdivision, shall prepare the regulations to implement the flood management plan. The subdivision shall adopt these regulations. If a municipality elects and the county agrees, the county, in consultation with the municipality, shall prepare the regulations. If the county does not agree, the Department, in consultation with the municipality, shall prepare, if requested, the regulations. The municipality shall adopt the regulations prepared for the municipality. Implementation of the flood management plans shall begin within 1 year after they are completed.

(2) (i) Baltimore City and Baltimore County shall include in the flood management plan for the Jones Falls watershed and adopt regulations prohibiting any person from erecting any new residential structure or any substantial residential structural changes which would constitute any amount of encroachment into the 100-year floodplain of the nontidal Jones Falls, and requiring all new nonresidential structures or improvements, except flood control projects, to be elevated above the 100-year flood elevation. However, these restrictions may be construed not to apply to any public works project of Baltimore City, Baltimore County, or the State.

(ii) In issuing any manner of permit or approval to any person to modify or renovate any existing structure or to modify the use of any open land area in the 100-year floodplain of the nontidal Jones Falls, Baltimore City or Baltimore County shall impose conditions to require that risk of injury to persons or property shall be minimized to the greatest extent practicable.

(h) (1) There is a comprehensive flood management grant program within the Department.

(2) (i) Subject to the approval of the Board of Public Works, the Department may use proceeds from the State debt created to fund the comprehensive flood management grant program to pay the entire cost of watershed studies pursuant to subsection (b) of this section.

(ii) The Department may provide grants to subdivisions to pay the entire cost of watershed studies when the Department delegates that responsibility pursuant to subsection (b) of this section.

(3) (i) Subject to the approval of the Board of Public Works, the Department may provide grants to subdivisions for flood control and watershed management capital projects, and for the capital costs related to design, purchase, and installation of automated flood warning projects, provided that the projects are consistent with the plans and implementation prepared and adopted in accordance with this subtitle, and provided further that each project:

1. Is undertaken as part of a comprehensive flood management plan prepared and adopted by the subdivision; and

2. Is not inconsistent with any State or interjurisdictional flood management plan.

(ii) Grants for automated flood warnings projects shall be conditioned to require all affected local governing bodies to:

1. Adopt a specific and compatible response plan which has been coordinated with local emergency management authorities and reviewed and approved by the Department and the Maryland Emergency Management Agency; and

2. Provide for financial and other commitments to properly operate and maintain the project.

(iii) 1. The amount of any grant made by the Department for a flood control and watershed management capital project that involves only nonfederal funds and meets the criteria of this subtitle shall be matched by a minimum amount of 25% of project costs in local government or private funds.

2. For a flood control and watershed management capital project that involves federal funding and meets the criteria of this subtitle:

A. The Department may provide up to 50% of the nonfederal share of the project funding; and

B. Local government or private funds shall provide not less than 50% of the nonfederal share of the project funding.

(iv) Each project application for a grant under this paragraph shall be submitted to and reviewed by the State clearinghouse of the Department of Planning in accordance with established clearinghouse procedures.

(4) (i) Subject to the approval of the Board of Public Works, the Department may provide grants to subdivisions immediately after a flood for acquisition of any flood damaged owner-occupied dwelling.

(ii) Total expenditures for grants made under this paragraph may not exceed 50% of the total authorized budgeted funds in a fiscal year for grants under this subsection.

(5) (i) The Department may award grants to subdivisions that have incurred at least \$1,000,000 in infrastructure damage caused by a flood event that occurred on or after January 1, 2009.

(ii) The total amount of grants awarded by the Department to subdivisions under this paragraph may:

1. For fiscal years 2020, 2021, and 2022, equal up to 100% of the total amount of money appropriated to the comprehensive flood management program; and

2. For fiscal year 2023 and each fiscal year thereafter, equal up to 50% of the total amount of money appropriated to the comprehensive flood management program.

(iii) A grant awarded to a subdivision under this paragraph may be:

1. For an amount of up to 50% of the combined cost of infrastructure repairs, watershed restoration, and emergency work associated with the flood event;

2. Used for infrastructure repairs, watershed management, or emergency protection work associated with the flood event; and

3. Used for expenses associated with item 2 of this subparagraph that the subdivision has already incurred.

(iv) The Department shall prioritize awarding grants under this paragraph to subdivisions in which:

1. Infrastructure damage occurred in an area designated by the Maryland Historical Trust as an historic district; or

2. Infrastructure damage caused by a flood event has occurred more than once within the previous 5 years.

(6) To receive a grant, the subdivision must participate in the national flood insurance program.

(7) Before awarding a grant under paragraphs (2), (3), or (4) of this subsection, the Department, in cooperation with the Department of Planning, shall review the flood control and watershed management operations of the applicant subdivision to assure that the flood control and watershed management operations are in compliance with this subtitle.

(8) (i) The Governor shall include in the annual State budget an appropriation for the comprehensive flood management grant program of at least:

1. For fiscal year 2021, \$3,000,000;

2. For fiscal year 2022, \$3,000,000; and

3. For fiscal year 2023, \$2,000,000.

(ii) Funds not awarded from the comprehensive flood management grant program by the end of a fiscal year:

1. Shall remain in the program; and
2. Are not subject to § 7-302 of the State Finance and Procurement Article.

(9) (i) The Department, in consultation with the Department of Planning, shall adopt regulations necessary for the administration of the grant program.

- (ii) These regulations may include:
1. A determination of statewide and interjurisdictional needs and priorities;
 2. Standards of eligibility for applicants and projects;
 3. Criteria for recognition of tidal and nontidal areas;
 4. Engineering and economic standards and alternatives; and
 5. Procedures for filing and processing contents of applications.

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